Dockets 222

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

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IN REPLY REFER TO:

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Federal Communications Commission
Office of the Secretary

Honorable Jim Ross Lightfoot
House of Representatives
1222 Longworth House Office Building
Washington, DC 20515-1505

Dear Congressman Lightfoot:

Thank you for your letter regarding Commission proposals to allocate spectrum for personal communication services. Your constituent, Mr. Dennis L. Hill, Data Retrieval Manager of Northwest Iowa Power Cooperative, expressed concern to you regarding proposals to reallocate frequencies at 2 GHz that would impact the electric and gas utilities.

On January 16, 1992, the Commission adopted a Notice of Proposed Rule Making (Notice) in ET Docket No. 92-9 that proposes allocating 220 MHz of spectrum at 2 GHz for use by new services and technologies. The Office of Engineering and Technology has developed a fact sheet which outlines this proposal. I have enclosed a copy for your information. In addition, because there has been some confusion about how this proposal would impact public safety agencies, I have enclosed a fact sheet which describes how those agencies would be affected by certain spectrum policies currently under consideration.

Briefly, under the Commission's proposal, state and local government licensees, including public safety agencies, would indefinitely continue their current operations on a primary basis. Other existing licensees would be permitted to continue their current operations on a primary basis for a period of time to be established - such as 10 or 15 years. Subsequently, they would be permitted to continue operating only on a secondary basis. Expansion and new microwave systems would be permitted on a primary basis only at higher frequencies. In conjunction with the Notice, the Commission released a staff study of existing use of this spectrum and identified other suitable frequencies available for this purpose. To further facilitate accommodation of the competing demands for this spectrum, the Commission also proposed to permit negotiation of financial arrangements between existing licensees and parties proposing new services. Such an approach would facilitate access to this spectrum for services employing emerging technologies.

These provisions are intended to prevent disruption to the communications of the existing licensees, yet still provide the spectrum needed by U.S. companies to develop new and innovative telecommunications products and services and bolster U.S. competitiveness in world telecommunications markets. An example of one such new proposed service is the personal communications service (PCS), which the Commission is addressing concurrently in GEN Docket No. 90-314.

The needs of the existing 2 GHz users are of importance to the Commission, and are being taken carefully into consideration. Please be assured that Mr. Hill's concerns will be taken into account before a final determination is made, and for that purpose, I am making this correspondence part of the record in the two dockets discussed above, ET Docket No. 92-9 and GEN Docket No. 90-314.

Sincerely,

Thomas P. Stanley
Chief Engineer

Enclosures

**HOUSE OF REPRESENTATIVES, U.S.**
WASHINGTON, D.C.

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The attached communication is submitted for your consideration, and to ask that the request made therein be complied with, if possible.

If you will advise me of your action in this matter and have the letter returned to me with your reply, I will appreciate it.

**HON. JIM LIGHTFOOT**
**1222 LHOB**
**WASHINGTON, D.C. 20515**
**202-225-3806**
**ATTN:** Tom Longnecker

Very Truly yours,

Jim Lightfoot
M.C.

M.C.

5th IA District.

NORTHWEST IOWA
POWER COOPERATIVE
P. O. Box 240
Le Mars, Iowa 51031-0240
Phone 712-546-4141

February 11, 1992

The Honorable Jim Lightfoot
Attn: Creighton Anderson
1222 Longworth House Office Bldg.
Independence Ave. & New Jersey Ave., S.E.
Washington, D.C. 20515

Sir: In Reply Refer to: Code 105

SUBJECT: PCS and PCN Controversy

As you know from previous correspondence, NIPCO and others in the utility industry are deeply concerned about the future of our existing microwave radio spectrum. This radio spectrum is being taken over by Personal Communications Networks (PCN), Personal Communications Services (PCS) and developing technologies through the assistance of the Federal Communications Commission (FCC).

Enclosed is an article that was published in the February 10, 1992, issue of RCR. RCR is a trade publication for the telecommunications industry. The article is written by Frederick J. Day, an attorney with Keller & Heckman, a Washington law firm.

Mr. Day's current position with Keller & Heckman and his past position with the FCC gives him an unbiased viewpoint on this important topic.

Please review his article. He is stating exactly what the utility industry has been saying the past year. We have taken the position that PCS is an unneeded technology which, if allowed to displace existing microwave users, will jeopardize the safety of the American public. It will also cost the American public an estimated $1 billion to replace perfectly good equipment -- what a waste!

Again, we need your help to stop this unjust disaster that awaits the American public if the FCC is allowed to continue in their current direction.

Please do what you can to turn the FCC around.

Sincerely,

NORTHWEST IOWA POWER COOPERATIVE

Dennis L. Hill
Data Retrieval Manager

DLH:mrs
Enclosure

# PCS: High Tech, Wrong Tack

*By Frederick J. Day, Esq.*

Several years ago, there was a document filed with the Federal Communications Commission that proposed an innovative, and undeniably splashy, new use of the radio spectrum.

"Spaceshot Radio" it was to be called, or some other equally catchy moniker. And who could resist the concept? Radio frequencies would be used to send messages from the planet Earth to the heavens and beyond. Thanks to the magic of radio waves, outer space was within reach of all of us. And that's just what the entrepreneur proposing the idea had in mind.

Birthday messages, anniversary greetings, messages to relatives long since deceased—the potential uses of Spaceshot Radio were endless. In the final analysis, and not without some earnest discussion, the FCC concluded that the radio spectrum could better be used for other purposes. Application denied. Creative and original? Yes. A good use of the radio spectrum? No.

An easy case? Perhaps. As frivolous as the proposal may have seemed, the FCC's decision was far from predictable, if only for one reason—the FCC historically has a difficult time saying "no" to innovative new uses of the radio spectrum.

The FCC is enamored of innovative proposals for use of the radio spectrum—and always has been. To the FCC's way of thinking, new uses of radio waves represent progress. Never has this predilection for new uses been more pronounced than in the past few years. The FCC goes to great lengths to encourage the introduction of new technologies and new applications of old technologies. Quite obviously, that's not all bad.

In its drive to foster new technologies, the FCC, alone among federal agencies, has adopted provisions for what it terms a "pioneer's preference." When you, the innovator, come up with a new idea, you get a reward: Come time for the FCC to allocate spectrum to implement your idea, you get first crack at the spectrum and are insulated from other potential competitors. It's catchy and it's original—a reaffirmation of traditional American values.

There is, however, a danger lurking in the FCC's rush to accommodate new technologies and new telecommunications services. Old technologies and old services may be neglected, or worse, trampled upon. Indeed, when faced with the need to find radio spectrum to accommodate new radio services, the FCC has a history of trampling upon well-established and productive uses of the spectrum.

It happened in 1982 when the FCC rushed headlong to reallocate a large chunk of spectrum for the ill-fated (up to this point) Direct Broadcast Satellite (DBS) Service. To accommodate the DBS Service, some 2,000 existing radio stations providing essential operational and safety-related communications for state and local governments, railroads, energy companies, and other businesses were placed in jeopardy.

It may well be happening again, but this time with more dire consequences. The FCC has proposed to allocate a large portion of the radio spectrum for what are collectively called personal communications services, or PCSs. As the potential home for PCS systems, the FCC has targeted the 2 GHz radio frequency band—the most desirable, most economic, and most versatile of the frequency bands now used by state and local governments, railroads and energy companies.

The hallmark of the PCS proposals is the so-called smart card. The very term "smart card" suggests something magical, a technological wonder. As the PCS proponents conceive it, PCS will be all things to all people. It will be a cordless phone without the accompanying bulk, a cellular phone without the accompanying expense. Therein, however, lies the rub. There will be little that PCS will be able to offer consumers that cordless telephones and cellular phones are not capable of providing.

PCS, the FCC suggests, will significantly enhance the ability of individuals to communicate. Question: When is the last time you, the consumer, felt hindered by a lack of communications capability? Perhaps on the drive from San Antonio to El Paso, Texas, where there are few people and even fewer public telephones? Sorry, PCS won't help in rural America. PCS will be dependent upon a large number of rather costly microcell base stations. Only in an urban environment will these microcells be economically feasible. There are simply not enough potential customers inhabiting the stretch between San Antonio and El Paso to justify the expense of microcells.

Or perhaps there were occasions when you were cruising the California freeways and yearned for a communications device that is not so juvenile as CB radio and not so costly as cellular? Sorry, PCS won't really help in this instance either. PCS will be incapable of functioning properly in vehicles that are traveling at speeds in excess of 20 miles per hour.

The inescapable truths are that: 1) PCS will never be as versatile or as useful as cellular telephones; 2) PCS may well prove to be less expensive than cellular but it will not be inexpensive: "Smart cards" will not be "cheap cards"; 3) PCS will be largely restricted to urban markets; 4) Even if PCS were to be made available to consumers at no cost, society ultimately would still pay dearly for this luxury if it is to be implemented at the expense of communications systems currently used by state and local governments, railroads, energy companies and business in general.

The communications systems that have been placed in jeopardy by the PCS proposals fulfill vital, not discretionary, functions.

The real issue is whether governmental entities at the state and local level, railroads, energy companies and other business entities must yield their frequencies to accommodate PCS. From a public interest perspective, before the FCC can reach a decision in favor of PCS, it must first determine that PCS systems represent a higher societal value than the existing safety-related uses.

The FCC may well reach such a conclusion and, if it does, it will undoubtedly also conclude that there are other suitable communication alternatives available to serve the needs of the displaced users.

But note these three observations regarding the use of other communications alternatives to satisfy the needs of displaced users: Yes, there are other communications mediums potentially available; no, these alternatives will not be perfect, or even tolerable, substitutes in all cases; yes, the transition to these other alternatives will be expensive—to the tune of several billion dollars.

There is currently more than $1 billion of undepreciated investment in communications systems that stand to be displaced by PCS. The move to other parts of the radio spectrum or other communications alternatives such as satellites, will cost additional billions. Clearly, it is an expensive proposition. As with other expensive propositions, consumers and taxpayers will ultimately end up paying the bill.

*There is currently more than $1 billion of undepreciated investment in communications systems that stand to be displaced by PCS.*

Expense aside, the move has other significant consequences as well. When communications systems are displaced, there are unavoidable disruptions to essential communications. In the short term, such disruptions are primarily a matter of safety.

The communications systems at risk are the very systems that allowed petroleum and natural gas companies, utilities, and state and local governments to coordinate service restoration and civil defense assistance when Hurricane Hugo hit South Carolina and when the Loma Prieta earthquake paralyzed portions of northern California.

This communications capability simply cannot be compromised. Any transition to other radio frequencies or other communications alternatives raises the prospect that essential systems will be disrupted and, in turn, the public safety jeopardized.

If Spaceshot Radio was deemed a frivolous concept, it at least had the virtue of being relatively harmless. It likely would not have displaced other, more useful radio services. PCS, on the other hand, may not be frivolous, but it is far from harmless. Should PCS be allowed to displace existing, more critical communications systems, the impact will be severe. You can count on it.

*Frederick J. Day is an attorney with the law firm of Keller and Heckman, specializing in the practice of telecommunications law. Before joining that firm, Day spent 13 years with the Federal Communications Commission, most recently serving as chief of the Rules Branch in the Private Radio Bureau.*